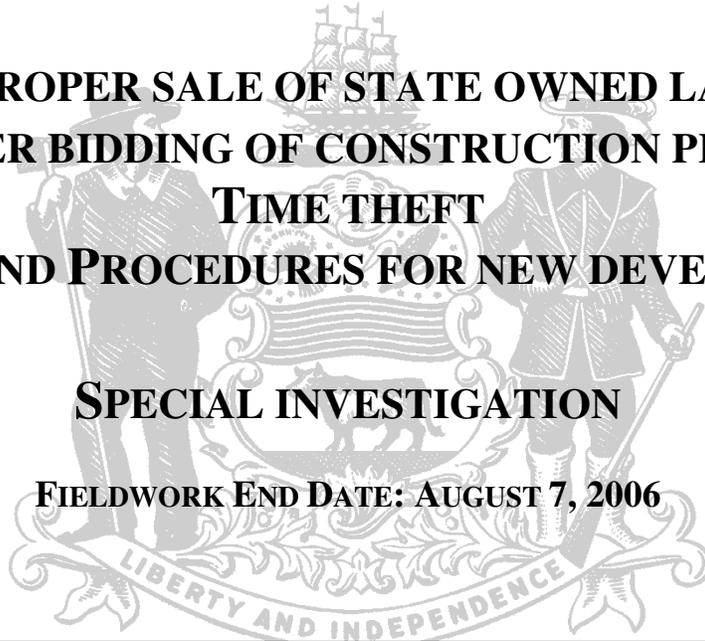


**STATE OF DELAWARE**  
**OFFICE OF**  
**AUDITOR OF ACCOUNTS**

**DEPARTMENT OF TRANSPORTATION**

**IMPROPER SALE OF STATE OWNED LAND**  
**IMPROPER BIDDING OF CONSTRUCTION PROJECTS**  
**TIME THEFT**  
**POLICIES AND PROCEDURES FOR NEW DEVELOPMENTS**  
**SPECIAL INVESTIGATION**

**FIELDWORK END DATE: AUGUST 7, 2006**



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# EXECUTIVE SUMMARY

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## **ALLEGATIONS**

The Office of Auditor of Accounts (AOA) received the following allegations regarding the Delaware Department of Transportation (DelDOT):

1. Improper sale of State-owned land.
2. Improper bidding for DelDOT construction of the building addition project to the DelDOT Administration Building and the SR 1 Dover High-Speed Toll Bypass Lanes.
3. Alleged time theft (Area 4, Gravel Hill, Route 9 Yard)

In addition, AOA received an inquiry as to whether DelDOT has policies and procedures for new developments approved by DelDOT.

## **BACKGROUND**

AOA received allegations stating that (1) State owned land near I-95 was sold improperly and (2) there was an employee time theft at the Area 4, Gravel Hill, Route 9 Yard. In addition, AOA received an inquiry as to whether DelDOT has policies and procedures for new developments approved by DelDOT.

The Delaware Department of Justice, Office of Attorney General also received an allegation regarding the improper sale of State-owned land near I-95 as well as an allegation that DelDOT construction projects for the addition to the Administration Building and the SR 1 Dover High-Speed Toll Bypass Lanes did not follow State bid laws. The Office of Attorney General requested the AOA investigate these allegations.

## **CONCLUSIONS AND OBSERVATIONS**

The allegation of improper sale of State-owned land is unsubstantiated.

The allegation of improper bidding for DelDOT construction of the building addition project to the DelDOT Administration Building and the SR 1 Dover High-Speed Toll Bypass Lanes is unsubstantiated.

The allegation of time theft at Area 4, Gravel Hill, Route 9 Yard is unsubstantiated.

DelDOT does have policies and procedures for new developments; however, the procedures are outdated and inconsistently followed.

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# AUDIT AUTHORITY

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Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency and economy; and
5. Such data, information and recommendations as the Auditor of Accounts may deem advisable and necessary.

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# ALLEGATION AND BACKGROUND

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## ALLEGATION

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## BACKGROUND

### Allegations

AOA received allegations stating that (1) State owned land near I-95 was sold improperly and (2) there was an employee time theft at the Area 4, Gravel Hill, Route 9 Yard. In addition, AOA received an inquiry as to whether DelDOT has policies and procedures for new developments approved by DelDOT.

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### Department of Transportation

The mission of the Department of Transportation (DelDOT) is to provide a safe, efficient, and environmentally sensitive transportation network that offers a variety of convenient, cost-effective mobility opportunities for the movement of people and goods. DelDOT is responsible for the construction and maintenance of the State of Delaware's (the State) roadways, bridges, and public transportation systems, and for the coordination and development of the State's comprehensive, balanced transportation planning and policies.

### Acquisition and Sale of Real Property

Title 17, Del. C. § 137 authorizes DelDOT to acquire such property or property rights in connection with highways and streets within its jurisdiction. Title 17 also requires DelDOT to dispose of the property when no longer needed for transportation purposes.

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# ALLEGATION AND BACKGROUND

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## Bid Process

The Purchasing and Contracting Advisory Council established thresholds that trigger formal bidding procedures in the areas of Material and Non-Professional Services, Public Works, and Professional Services. State agencies are only required to use the formal bidding procedures when a purchase is made in an amount that exceeds the threshold limit.

### Material and Non-Professional Services

Less than \$10,000 - Open Market Purchase  
\$10,000 - \$24,999 - 3 Written Quotes  
\$25,000 and over - Formal Bid

### Public Works

Less than \$25,000 - Open Market Purchase  
\$25,000 - \$49,999 - 3 Letter Bids  
\$50,000 and over - Formal Bid

### Professional Services

Less than \$50,000 - Open Market  
\$50,000 and over - Formal RFP Process

Senate Bill 242, 140<sup>th</sup> General Assembly, Section 111 authorized DelDOT to “Design/Build” four construction projects. Construction projects designated “Design/Build” are exempt from the bid process required by Title 29, Chapter 69, Subchapter IV.

## Compensatory Time

FLSA-covered employees with a standard work week of 37.5 hours who are authorized to perform overtime service shall be paid at 1.5 times their regular rate for each hour worked after 37.5 hours per week. FLSA-covered employees with a standard work week of 40 hours who are authorized to perform overtime service shall be paid at 1.5 times their regular rate for each hour worked after 40 hours. The form of pay, time off or cash, is at agency discretion and shall be agreed to in advance. Only hours worked over 40 hours per week are covered by the overtime provisions of the FLSA. The regular rate of pay shall include all payments (e.g., shift differential, stand-by duty pay and hazardous duty pay). Agencies may assign reasonable periods of overtime to meet operational needs.

Employees in FLSA exempted classes authorized to work beyond the standard work week may be paid with equal time off.

Merit compensatory time shall be used within 180 calendar days of accrual or be forfeited. Under extenuating circumstances, the Director may approve exceptions to this rule. FLSA compensatory time may be accrued up to 240 hours of compensatory time-off unless the employee is engaged in work in a public safety activity, an emergency response activity, or a seasonal activity in which case the employee may accrue not more than 480 hours of compensatory time-off. Hours in excess of the 240 hours FLSA maximum shall be paid overtime.

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# ALLEGATION AND BACKGROUND

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## Internal Controls

DelDOT is responsible for establishing and maintaining an effective system of internal controls. A well-designed system of controls must include written policies and procedures to ensure that each control objective is met. The controls should:

1. Ensure that assets are safeguarded.
2. Ensure accuracy and reliability of the State's accounting data and records.
3. Ensure compliance with all policies and procedures prescribed by management.
4. Promote the operational efficiency of the Department.

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# OBJECTIVES, SCOPE, & METHODOLOGY

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## **OBJECTIVES**

The objectives of the investigation were:

1. Determine if DeIDOT improperly sold State-owned land.
2. Determine if DeIDOT improperly bid projects for construction of the building addition project to the DeIDOT Administration Building and the SR 1 Dover High-Speed Toll Bypass Lanes.
3. Determine if the allegation of time theft is substantiated.
4. Determine if DeIDOT has policies and procedures for new developments and if DeIDOT complies with the policies and procedures.

## **SCOPE**

The scope of the investigation was as follows:

<b><u>Allegation</u></b>	<b><u>Scope</u></b>
Improper sale of State-owned land	Date of purchase of land to the date of sale
Improper bidding	Dates of bid requests to the dates of awards
Time Theft	January 1, 2005 through July 5, 2006
Policies and Procedures - New Developments	Fiscal Year 2006

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

## **METHODOLOGY**

AOA developed procedures to address the aforementioned objectives. Procedures consisted of (a) interviews and inquiry of key personnel, (b) review of relevant policies and procedures, and (c) inspection of documentation pertaining to the sale of State-owned land, bidding of construction projects, earning of compensatory time, and approval of new developments.

# CONCLUSIONS

Objective	Conclusion
Determine if DelDOT improperly sold State-owned land.	<p>Per review of DelDOT real estate records, AOA found the following:</p> <ul style="list-style-type: none"> <li>• The state owned land was a trade of land in accordance with Title 17, Delaware Code §137(b)(5).</li> <li>• The land acquired was appraised at a greater value than the land traded.</li> <li>• The land traded was not needed for future purposes of transportation.</li> </ul> <p><i>There is no finding or recommendation for this objective. The allegation was unsubstantiated.</i></p>
Determine if DelDOT improperly bid projects.	<p>AOA reviewed DelDOT records for the construction of the DelDOT Administration Building addition and the SR 1 Dover High-Speed Toll Bypass Lanes and found the following:</p> <ul style="list-style-type: none"> <li>• The SR 1 Dover High-Speed Bypass Lanes project was bid in accordance the Title 29 Chapter 69, Subchapter IV. The project was advertised for bid, three bids were received, and the contract was awarded to the low bidder.</li> <li>• The addition to the DelDOT Administration Building was designated by DelDOT as a “Design/Build” project in accordance with SB 242, 140<sup>th</sup> General Assembly (section 111). SB 242 authorized DelDOT to “Design/Build” four projects. The General Assembly approved the project as “Design/Build” on June 24, 2002.</li> </ul> <p><i>There is no finding or recommendation for this objective. The allegation was unsubstantiated.</i></p>
Determine if the allegation of time theft is substantiated.	<p>The employee’s leave record was reviewed and showed that all compensatory time earned and used was properly documented in accordance with the State Merit Rules and DelDOT’s policies and procedures.</p> <p><i>There is no finding or recommendation for this objective. The allegation was unsubstantiated.</i></p>

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# CONCLUSIONS

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Objective	Conclusion
Determine if DeIDOT has policies and procedures for new developments and if DeIDOT complies with the policies and procedures.	<p>The policies and procedures for new developments are insufficient to promote the operational efficiency of DeIDOT.</p> <p>Insufficient policies and procedures resulted in non-uniform practices by DeIDOT employees.</p> <p><i>Refer to the “Findings and Recommendations” section of this report for the complete detail including recommendations.</i></p>

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# FINDINGS AND RECOMMENDATIONS

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## **OBJECTIVE 4 – POLICIES AND PROCEDURES**

Determine if DelDOT has policies and procedures for new developments and if DelDOT complies with the policies and procedures.

### ***Finding:***

Managers are responsible for establishing internal controls through written policies and procedures. Written procedures are beneficial for the training of current and new employees and are a valuable resource in the event an employee leaves DelDOT. The Committee of Sponsoring Organizations of the Treadway Commission's report, Internal Control - Integrated Framework (COSO) and the State of Delaware *Budget and Accounting Manual* Chapter II state, "A well designed system of controls must include written policies and procedures to ensure that each control objective is met."

DelDOT's policy entitled *Rules and Regulations for Subdivision Streets* sets forth the requirements for the planning, design, construction, and acceptance for maintenance of subdivision streets. The policy was effective December 22, 1981 and has been revised six times, the most recent revision being July 1988. During the review of the approval process for new developments, AOA determined that employees do not consistently follow the policy.

AOA was provided a draft policy entitled *Standards and Regulations for Subdivision Streets and State Highway Access* with a proposed effective date of May 30, 2006. The policy has not been approved or implemented as of August 4, 2006.

Lack of current policies resulted in non-uniform processes in the approval of new developments.

### ***Recommendation:***

DelDOT approve and implement current policies and procedures for the approval of new subdivisions/developments. DelDOT monitor adherence with the policies and procedures.

### ***Auditee Response:***

We are in the process of finalizing a new policy to update the Standards and Regulations for Sub-Division Streets and State Highway Access. Once the public comments have been adequately addressed we will implement these updated standards. Our goal is to have this completed by the end of November, 2006.

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# DISTRIBUTION OF REPORT

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Copies of this report have been distributed to the following public officials:

Executive

The Honorable Ruth Ann Minner, Governor, State of Delaware

Legislative

The Honorable Russell T. Larson, Controller General, Office of the Controller General

Other Elective Offices

The Honorable Carl C. Danberg, Attorney General, Office of the Attorney General

Other

The Honorable Carolann Wicks, Secretary, Department of Transportation